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FM AMEMBASSY TBILISI
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INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE PRIORITY

C O N F I D E N T I A L SECTION 01 OF 02 TBILISI 001250

SIPDIS

E.O. 12958: DECL: 07/08/2019

TAGS: PGOV PHUM PREL GG

SUBJECT: GEORGIA: PROPOSED PROTEST LAW FURY - MORE SHOW
THAN SUBSTANCE

Classified By: AMBASSADOR JOHN F. TEFFT. REASONS: 1.4 (B) AND (D).

¶1. (C) Summary/Comment: A proposed draft law to clarify the existing law on protests has been subject to extensive criticism by the non-parliamentary opposition. A preliminary assessment by Post and our Tbilisi-based European diplomatic colleagues reveals the law to be well within the European standards to which it aspires. Nevertheless, a proposed increase for administrative detentions from 30 to 90 days concerns both Post and the Europeans. Post will follow up with GoG officials to clarify the issue and express our concern about the proposed expansion of administrative detentions. End Summary/Comment.

Long Briefing - Little Merit

¶2. (C) On July 8, the non-parliamentary opposition gave a briefing to the Diplomatic Corps calling the proposed draft law "Another Step Towards Dictatorship". They circulated what purported to be a legal analysis of the proposed law which concluded that it was significantly more restrictive than European standards allow. In general, the non-parliamentary opposition objected to certain clauses that prohibited the ability to block roads with objects (such as cells or vehicles); limited the area in which a protest could be staged to outside of 20 meters from enumerated public buildings (such as Parliament, the State Chancery, and the Presidential Residence); and an explicit clause allowing the use of rubber bullets and other similar crowd control devices. The draft law also contained a clause which permitted the blocking of roads only in the event that the number of protesters were numerous enough to require space on traffic lanes to stage. The last clause was criticized as too vague by the non-parliamentary opposition. (Embassy Comment: The clause is somewhat vague but can be clarified in subsequent readings. Additionally, the issue could be handled through the existing protest permit procedure which could still grant protesters the right to stage on streets. Finally, courts could always rule on whether the law is constitutional or correctly applied if the government uses the provision to arrest people. End Comment.)

¶3. (C) Western diplomats at the meeting uniformly found the non-parliamentary opposition's criticisms of the law unfounded, except for concerns about the proposed change for administrative detentions. (Embassy Comment: With the exception of the administrative detention clause, the clauses at issue outline restrictions consistent with Time, Place, and Manner restrictions envisioned by American Constitutional Jurisprudence. As described, the draft reflects a content neutral approach to application consistent with principles of U.S. law. End Comment.) The only diplomat who spoke at the briefing was the Swedish Ambassador who told the non-parliamentary representatives that exaggerated descriptions of reality do not help their cause. He further added that diplomats should not be summoned and requested to get involved in every detail of every issue to which the non-parliamentary opposition objects. He noted his concern about the administrative detention provision. He suggested that the non-parliamentary opposition could discuss the issue

with Swedish FM Carl Bildt who is scheduled to arrive in Tbilisi next week, if they chose. His comments were then distorted by Manana Nachkebia (New Rights) who told the press that the Swedish Ambassador agreed with the non-parliamentary opposition that the law "in no way conforms to Council of Europe Standards" and insinuated that the Swedish Ambassador supported Carl Bildt's intervention on the issue. Representatives of the Swedish Embassy told Poloff that Nachkebia completely distorted their Ambassador's comments.

What the Europeans Think

¶4. (C) Apart from the noted concern about the clause raising administrative detention from a maximum of 30 to 90 days, no other clause bothered European diplomats. Council of Europe Special Representative Borys Wodz told Poloff that he had no problem with the current draft but had suggested and would continue to push for Venice Commission review. Wodz said that some in the GoG were considering having the Venice Commission review the law in parallel to the parliamentary approval process. Wodz told Poloff this process would not be ideal, but the law could still be changed if necessary to make it conform to Venice Commission standards. EU representative Francois Massoulie told Poloff that they viewed the draft as conforming with European standards and that the only potentially troubling issue was the administrative detention clause. Deputy to the EU's Special Representative to the Caucasus Kaupo Kand echoed this, noting that he saw nothing concerning other than the administrative detention clause. Diplomatic contacts in the German, British, Dutch, and Swedish Embassies all concurred with this assessment.

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